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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|------------------------|---------------------|------------------|
| 10/811,071 | 03/26/2004 | Simon Fenney | 3700.P0373US | 8073 |
| 23474 7590 03/05/2010 FLYNN THIEL BOUTELL & TANIS, P.C. 2026 RAMBLING ROAD KALAMAZOO, MI 49008-1631 | | | | |
| EXAMINER HAJNIK, DANIEL F | | | | |
| ART UNIT 2628 | | PAPER NUMBER | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

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|--------------------------------------|--------------------------------------|
| Application No. 10/811,071 | Applicant(s) FENNEY ET AL. |
| Examiner DANIEL F. HAJNIK | Art Unit 2628 |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 February 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 10 February 2010. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): The 35 USC 101 rejections on claims 10-12, 14-18, 20, 24-26, and 28.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: 2, 3, 11, 12, 22, 23, 25 and 26.
Claim(s) rejected: 1, 5-10, 14-21, 24, 27 and 28.
Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____

/Daniel F Hajnik/
Examiner, Art Unit 2628

Continuation of 11, does NOT place the application in condition for allowance because: The examiner respectfully believes that the existing prior art rejections of record are in good standing.

For example, Redshaw provides evidence of that object lists existed and were used in computer graphics culling systems as shown in figure 5, piece 32 before the priority date of this present application.

Further, while there are differences in Redshaw and the present invention, the prior art rejection of record already accounts for such differences and relies upon two other secondary references under 35 USC 103(a) to teach some of the features in independent claim 1 that were not taught in Redshaw. The prior art rejection is not stating that Redshaw is exactly the same as the claimed invention of independent claim 1, but rather the prior art rejection is based upon obviousness rationale.

In Redshaw, one of ordinary skill in the art may recognize that on pg. 2, lines 21-23 in Redshaw that "A display list of the surfaces which fall within that tile is used to define objects within the bounding box " is the claimed "deriving a list of objects" because the surfaces are part of the objects in the scene for that particular tile. The objects as seen from a given viewpoint in a computer graphics image have surfaces which determine how the rendered scene should appear. Further, Redshaw states that these surfaces are within the tile. One of ordinary skill in the art would recognize that surfaces that appear within the tile are also surfaces that are potentially visible in that tile.

Further, McNamara teaches the concept of "culling small objects" in [0212] where "slivers" are quashed. These slivers are narrow small polygonal objects. In McNamara, this is similar to disposing of objects that are too small to make a significant contribution to the final image.

McNamara also shows the importance of "determining a minimum set of sampling points for an object" in figure 7 where the "x" marks are sampling points for object 700; also see [0079] of McNamara. McNamara uses these sampling points in figure 7 to drawing the fragments 710.

In regards to Steiner teaching the last two steps of independent claim 1, the applicant also remarks towards the bottom of page 13 that Steiner "does not describe how to remove the small objects from a display list that do not cover any pixel sample point ". However, Redshaw not Steiner is relied upon for showing evidence of the claimed "display list". In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The invention of independent claim 6 relates to a "tiling method" rather than the "method for culling small objects" in independent claim 1. The examiner respectfully believes that Redshaw teaches the claimed "determining a bounding box ... into which the object may fall" in the second step because Redshaw shows these bounding boxes in figures 6-8 and in pg. 8, lines 7-11 where the triangle that lies across the tiles is an object. The examiner believes one of ordinary skill in the art would recognize the triangle in figures 6-8 as an object in the image.

In regards to the 4th step of "inserting the object in an object list for the rectangular area", Redshaw shows this in figure 5. The examiner believes that one of ordinary skill in the art would recognize piece 32 in figure 5 as an object list because the reference labels this part as an "Object List 32". In addition, figure 5 shows the relationship between the "rectangular areas" or tiles and the object list 32 through their use of pointers.

In regards to the claimed "wherein the step of testing the edge information includes the step of shifting the edge information by a predetermined amount based on an orientation of each edge" at the 5th step, the examiner believes that Redshaw suggests this feature. The applicant argues at the bottom of page 16 that the triangle edge is different from an object edge. The examiner believes that one may take a broadest reasonable interpretation of the claim that consider the triangle to be an object in the image.

Lastly, Pearce is relied upon for showing the claimed "testing an edge information from each object against a consistent sample point ". The examiner believes that in col 4, line 62 to col 5, line 2 the "consistent sample point" is taught because Pearce states that their sample point is "stationary". Further, Pearce teaches that as their polygon edges are moved they are compared with respect to this "stationary point".